IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17/06/2004

CORAM

THE HON'BLE MR. JUSTICE V. KANAGARAJ

Transfer C.M.P.No.4749 of 2004

Subashini .. Petitioner

-Vs-

K. Sekar .. Respondent

Transfer C.M.P. filed under Section 24 CPC praying for the relief as stated therein.

!For petitioner : Mr.K.Venkataraman

^For respondent : No appearance

:O R D E R

This Transfer Civil Miscellaneous Petition has been filed by the petitioner-wife praying to withdraw HMOP No.19 of 1999 pending on the file of the Court of Subordinate Judge, Cuddalore and transfer the same to the Court of Family Judge, Chennai.

2. Heard the learned counsel for the petitioner and perused the materials placed on record.

3. On a perusal of the affidavit filed in support of this petition, it comes to be known that the petitioner wife having been chased out of her matrimonial home, has sought asylum by her parents in Chennai and is staying in the address offered in the petition; that it is practically not feasible for her to go to Cuddalore and contest the divorce petition filed by the respondent-husband, who is stationed at Cuddalore to suit his convenience. The petitioner would further express her inability to spend that much of money to travel and for her other expenses. On such grounds, the petitioner has come forward to file the above petition seeking the relief extracted supra.

4. Considering the above facts and circumstances, this Court is fully convinced of the reasons assigned on the part of the petitionerwife since she being a lady, making her travel from Chennai to Cuddalore often whenever the case gets posted is not an easy task and every insecurity prevails in making her journey staying overnight, etc. Moreover, she is

incapacitated to meet out the expenses for her travel. Therefore, it is only desirable to order the petition as prayed for by the petitioner-wife.

5. At this juncture, it is worth mentioning the judgment of the Apex Court rendered in Sumita Singh v. Kumar Sanjay reported in AIR 200 2 SC 396, wherein it is held:

"This is a transfer petition by the wife. She seeks the transfer of matrimonial proceedings filed by the husband against her in Ara, Bhojpur to Delhi. It is her case that she is now living and working in Delhi and that she would be unable to travel up and down from Delhi to Ara, a distance of about 1100 Kilometers from Delhi, to defend the matrimonial proceedings. She also states that she has no one with whom she can stay in Ara because her parents are residents of Gurgaon.

Learned counsel for the husband states that the wife is an educated woman who is doing very well and can, therefore, travel to Ara while the husband is unemployed.

It is the husband's suit against the wife. It is the wife's convenience that, therefore, must be looked at. The circumstances indicated above are sufficient to make the transfer petition absolute."

Therefore, it is clear that it is the convenience of the wife that must be given the utmost importance.

6. Considering the facts and circumstances and in view of the judgment of the Apex Court cited supra, this petition for transfer is ordered as prayed for by the petitioner-wife.

In result, the above transfer civil miscellaneous petition is ordered as prayed. No costs. Consequently, Crl.M.P.No.4750 of 2004 is closed.

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Index:Yes.

To
1. The Family Court, Chennai.
2. The Subordinate Judge, Cuddalore.

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